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BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL

Chairman

JIM IRVIN

Commissioner

MARC SPITZER

Commissioner

Arizona Corporation Commission

DOCKETED

MAY 28 2002

DOCKETED BY

IN THE MATTER OF ACCIPITER
COMMUNICATIONS INCORPORATED -
MOTION TO AMEND DECISION NO. 59346

DOCKET NO. T-02847A-95-0026

DECISION NO. 64843ORDER

Open Meeting
May 14 and 15, 2002
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. On May 10, 2001, Accipiter Communications Incorporated ("ACI") filed a Motion to Amend Decision No. 59346 (October 11, 1995).

2. ACI's filing requests that Decision No. 59346 be amended such that both existing and new customers within its service area will have extended area service ("EAS" or "local calling") with the Phoenix metropolitan calling area.

3. Decision No. 59346 addressed ACI's January 18, 1995 filing with the Commission for a Certificate of Convenience and Necessity ("CC&N") to provide telecommunications service in portions of Maricopa and Yavapai Counties in Arizona.

4. In 1995, U S WEST Communications, Inc. ("U S WEST") now known as Qwest Corporation ("Qwest"), was serving a small number of customers in the territory ACI was requesting a CC&N to serve (30 access lines at the time Decision No. 59346 was issued). These customers were being served out of U S WEST's Agua Fria and Circle City offices and these customers had two way local calling with the Phoenix metropolitan calling area.

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1 5. During the proceedings, U S WEST and ACI reached an agreement stating that
2 customers within what is now ACI's service territory would be transferred from U S WEST to ACI.
3 At the time ACI's CC&N was granted, a portion of the service territory was within the city limits of
4 the City of Peoria.

5 6. In the ACI CC&N proceeding, Staff supported the continuation of EAS between existing
6 customers in ACI's proposed service territory and the Phoenix metro calling area. ACI opposed
7 continuation of EAS between its proposed service territory and the Phoenix metropolitan calling area.
8 In the final Settlement Agreement, the parties agreed that EAS would be discontinued, but that for the
9 first five years of ACI providing service, the Company would offer discounts on local service rates
10 to existing customers.

11 7. ACI indicates that it believes EAS should now be offered between its service territory
12 and the Phoenix metro calling area for a number of reasons. ACI believes that its service territory has
13 an increasingly strong identification with the Phoenix metro calling area.

14 8. Since 1995, the City of Peoria has annexed a sizable portion of ACI's service territory,
15 significantly expanding the portion of ACI's service territory which is within the city boundaries. ACI
16 anticipates further expansions of the City of Peoria within the Company's service territory.

17 9. ACI states that it is having difficulty competing with alternative communication
18 providers, such as wireless companies and EAS would enable ACI's lines to compete more effectively.
19 ACI anticipates that such growth would strengthen ACI's financial condition. ACI has indicated that
20 the growth in access lines within its service territory has lagged the growth level expected at the time
21 its CC&N was granted. As of June 30, 2001, ACI was serving 187 access lines within its service
22 territory.

23 10. Further, ACI believes that EAS between its service territory and the Phoenix metro
24 calling area is reasonable given the previous history of EAS within its service territory.

25 11. Regarding costs, ACI has indicated that it is not requesting any cost consideration in this
26 proceeding and neither is Qwest, the local exchange company serving the Phoenix metro calling area.
27 ACI also states that it will not require additional facilities to offer EAS service to its customers.

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12. The Commission has received letters indicating support of the filing from John C. Keegan, Mayor of Peoria; Janice K. Brewer, of the Maricopa County Board of Supervisors and the Supervisor for District 4 which includes the northwest valley; and a customer within ACI's service territory. Additionally, it is Staff's understanding that Qwest does not oppose the filing.

13. ACI's request brings forth unusual circumstances for consideration in deciding whether to grant EAS. Normally, areas that are considered for new EAS have not in the past had the same EAS service that is being requested. However, this is the case with ACI's service territory.

14. ACI has indicated that at the time its CC&N was granted in 1995, all customers within the service territory had been receiving EAS with the Phoenix metro calling area. Further, ACI has indicated that 80 percent of current access lines (150 of 187) are within the areas where U S WEST previously provided EAS with the Phoenix metro calling area. ACI also has stated that 78 percent of current access lines are within the City of Peoria's city limits and that the Company estimates that by 2005 over 90 percent of access lines will be within the City of Peoria or in close proximity.

15. Given the small number of access lines under consideration and the indications that ACI and Qwest are not seeking to have costs addressed in this proceeding, it does not appear that there are any significant revenue impacts that need to be considered in relation to the application.

16. Staff believes that given the circumstances surrounding the application, reintroduction of EAS between ACI's service territory and the Phoenix metro calling area would be beneficial.

17. Staff has recommended approval of the filing.

CONCLUSIONS OF LAW

1. ACI is a public service corporation within the meaning of Article XV of the Arizona Constitution.

2. The Commission has jurisdiction over ACI and the subject matter of this filing

3. The Commission, having reviewed the filing, Staff's Memorandum dated May 17, 2002, and Staff's Engineering Report, concludes that it is in the public interest to approve the filing.

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ORDER

THEREFORE, IT IS ORDERED that the filing be and hereby is approved.

IT IS FURTHER ORDERED that the Phoenix local calling area shall be expanded to include Accipiter's service area within 120 days of this Order.

IT IS FURTHER ORDERED that Accipiter shall change the name of its "Lake Pleasant" rate center to "Phoenix 928" in the local exchange routing guide within 120 days of this Order.

IT IS FURTHER ORDERED that this Order shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN



COMMISSIONER



COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this 28th day of MAY, 2002.



BRIAN C. McNEIL
Executive Secretary

DISSENT: 

EGJ:RGG:hmm/JFW

1 SERVICE LIST FOR: Accipiter Communications Incorporated
2 DOCKET NO. U-2847-95-026

3 Mr. Thomas L. Mumaw
4 Snell and Wilmer
5 One Arizona Center
6 400 East Van Buren Street
7 Phoenix, Arizona 85004-2202

8 Regulatory Contact
9 Accipiter Communications
10 Post Office Box 11929
11 Glendale, AZ 85318

12 Mr. Timothy Berg
13 Fennemore Craig, P.C.
14 3003 North Central Ave., Suite 2600
15 Phoenix, AZ 85012

16 Mr. Ernest G. Johnson
17 Director, Utilities Division
18 Arizona Corporation Commission
19 1200 West Washington
20 Phoenix, Arizona 85007

21 Mr. Christopher C. Kempley
22 Chief Counsel
23 Arizona Corporation Commission
24 1200 West Washington
25 Phoenix, Arizona 85007

MEMORANDUM

TO: Robert Gray
Economist III

FROM: Richard Boyles
Utilities Engineer

DATE: February 1, 2002

RE: ACCIPITER COMMUNICATIONS, INC. ENGINEERING REPORT (DOCKET NO. T-02847A-95-0026)

This engineering report was prepared in response to the Motion of Accipiter Communications, Inc. ("ACI") to amend Decision No. 59346 ("Motion"). On May 10, 2001, ACI filed its Motion requesting the reinstatement of two-way extended area service ("EAS") between ACI's service area and the metropolitan Phoenix exchanges ("Phoenix local calling area") of Qwest Communications ("Qwest").

After review of the Motion and ACI responses to data requests, Engineering Staff ("Engineering") makes the following comments.

1. The only office code ("NXX") in the Lake Pleasant rate center assigned to ACI is 501. No other carrier is assigned a code.
2. The Lake Pleasant rate center is in the 928 area code ("NPA") as of result of the geographic split of the 520 NPA.
3. ACI anticipated its service area would remain a part of the 928 NPA. Engineering concurs with ACI. In regards to ACI's Motion, or any subsequent consideration of EAS expansion from a 928 NPA service area to the Phoenix local calling area, retention of the 928 NPA precludes the possibility of customers having to take a ten-digit number change if their NXX is in use by another carrier in the proposed new NPA and eliminates the need for a) a permissive dialing period, b) a mandatory dialing date with appropriate announcements and c) duplication of the NXX(s) in both the old and new NPAs during the permissive dialing and announcement period.
4. The proposed EAS expansion will require ten-digit local dialing from ACI's service area to the 480, 602 and 623 NPA's of the Phoenix local calling area.
5. Should the Commission approve ACI's motion, ACI should update the local exchange routing guide ("LERG") to eliminate the Lake Pleasant rate center and associate its NXX with a new "Phoenix 928" rate center. This change in designated rate center will conserve the use of numbering resources in the event that other 928 service areas are subsequently added to the Phoenix local calling area.

6. ACI asserts that no additional facilities will be required to support the proposed EAS expansion.

Based upon Engineering's review of ACT's Motion and the comments listed above, it appears that establishment of two-way EAS between ACT's service area and the Phoenix local calling area is an appropriate expansion of ACT's calling area. Therefore, Engineering finds that the Motion of ACI is reasonable.

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 WILLIAM A. MUNDELL

Chairman

3 JIM IRVIN

Commissioner

4 MARC SPITZER

Commissioner

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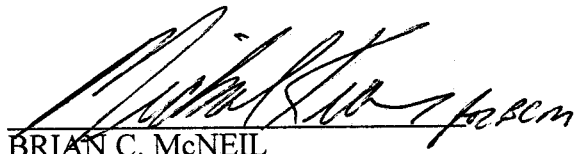
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BY ORDER OF THE ARIZONA CORPORATION COMMISSION
CHAIRMAN
COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this 16th day of MAY, 2002.


BRIAN C. McNEIL
Executive SecretaryDISSENT: 

EGJ:RGG:lmJFW

1 SERVICE LIST FOR: Accipiter Communications Incorporated
2 DOCKET NO. U-2847-95-026

3 Mr. Thomas L. Mumaw
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5 One Arizona Center
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